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Inheritance Taxation

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amount recovered. We can conceive of no reason why Kishi should be permitted to recover either a larger or smaller amount, because it is shown that Lang consented to the entry.

The Humble Oil & Refining Company insists that it should not be required to pay as damages Kishi's proportionate share of the market value of this leasehold interest, because it entered upon the land in good faith, believing that its lease had not expired. Though it did so in good faith, without any intention to injure Kishi, it asserted a right it did not have. This right, at the time it was wrongfully asserted, had a market value. Had the oil company acquired this right by purchase before its entry, the presumption of law is that it would have been required to pay the market value therefor. Had it done so, Kishi would have been entitled to receive three-fourths of the market value of the leasehold interest. We think that in this case three-fourths of the market value of the leasehold interest was the measure of the damages which Kishi was in law entitled to recover, and that proof of the market value was in law sufficient upon which to determine the amount of judgment in his favor. *Gulf, Colorado & Santa Fe Ry. Co. v. Cusenberry*, 86 Tex. 529, 26 S. W. 43.

We therefore recommend that the judgment of the Court of Civil Appeals be reversed, and that the judgment of the district court be so reformed as to allow K. Kishi judgment against the Humble Oil & Refining Company for the sum of \$37,500, with legal interest, and, as so reformed, that the judgment of the district court be here affirmed.

CURETON, C. J. Judgment of the Court of Civil Appeals reversed, and that of the district court reformed, and, as reformed, affirmed, as recommended by the Commission of Appeals.

NOTE—Liability of Trespasser for Drilling Dry Hole on Land, Thereby Destroying Oil Leasehold Value.—The reported case appears to be one of first impression. The Texas Court of Civil Appeals (261 S. W. 228), in the same case, held that where the lessee's entry to explore for oil and gas after expiration of his lease constituted a trespass, the owner was entitled as damages to the market value of leasehold rights and privileges in the land, but further held that the owner was not entitled to any specific sum as damages without a showing that he had an opportunity to lease, and would have accepted it, or what he could and would have leased his interest in oil and mineral rights for at the time of the trespass. This, the Supreme Court holds, is not the way to prove the value of the leasehold rights. Proof of the market value, is the proper method.

BOOK REVIEW

GLEASON AND OTIS—INHERITANCE TAXATION

The fourth edition of a Treatise on the Law of Inheritance Taxation and the Federal Estate and Gift Taxes, with Statutes, Decisions and Forms by Lafayette B. Gleason and Alexander Otis has just been issued by Matthew Bender & Company, Albany, New York. The present edition was revised by Mr. Otis. This is a general treatise for all states, but so arranged as to be to all practical purposes a local work for all states imposing inheritance taxes. It includes a table of cases for each state, separately arranged in alphabetical order.

A new edition of this work was made imperative by the fact that thirty-eight states and the Federal Government have changed their laws since the last edition. The radical amendments to the Federal Estate Tax have necessitated new rules and regulations, promulgated April 15th, 1925, and separate rules, regulations and forms have been issued for the Gift Tax. These are published in full in this edition.

Relative to the plan of the fourth edition, the publishers have this to say:

"The whole scheme of the book has now been altered. The present volume is divided into four distinct parts.

"*First, the Federal Statute*, with digest of decisions, procedure, rules and regulations, and forms.

"*Second, a General Treatise*, subdivided into twenty-four chapters, which undertakes to classify and analyze the law of the entire subject, with citations from every State in the Union and a theoretical discussion of the many and intricate problems involved.

"*Third, the New York Statute*, forms, rules and regulations, and procedure, rendered necessary by the fact that the New York decisions equal in number all other jurisdictions combined, and

"*Fourth, the Statutes of all the Other States*, alphabetically arranged.

"*The Table of Cases* arranged by States adopted in former editions has been preserved; although novel it has been generally commended, as it gives the attorney in each State an opportunity to see at a glance what decisions have been rendered in his own jurisdiction.

"Some of the material that found its place in former editions has been eliminated as obsolete. In fact, if this had not been done, it would have been necessary to divide the work into two volumes, a result to be avoided if possible."